

APPEAL NO. 041165
FILED JUNE 23, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on April 14, 2004. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on _____; that the claimant had disability from June 5, 2003, through the date of the CCH; and that the appellant (carrier) is not relieved from liability for the claim because the claimant timely notified her employer. The carrier appealed, arguing that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. The carrier argues that the claimant testified she did not notify her employer of the alleged injury until after her first visit with Dr. D on May 12, 2003. The claimant responded, urging affirmance of the hearing officer's decision.

DECISION

Affirmed.

The claimant had the burden to prove that she sustained a compensable injury as defined by Section 401.011(10), that she had disability as defined by Section 401.011(16), and that she gave timely notice of an injury to the employer in accordance with Section 409.001(a). Conflicting evidence was presented on the disputed issues. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's determinations on the appealed issues of compensable injury, disability, and timely notice of injury are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W. 2d 175 (Tex. 1986).

With regard to the notice issue, the hearing officer noted in her discussion of the background information that the claimant appeared to be confused regarding when she first informed her employer of the injury, but the hearing officer was persuaded that the documents in evidence support the claimant that she notified the employer on April 22, 2003. There is sufficient evidence in the record to support this finding.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **ROYAL INSURANCE COMPANY OF AMERICA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS STREET, SUITE 750
AUSTIN, TEXAS 78701.**

Margaret L. Turner
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge